

REMARKS

Claims 1-5, 8-9, 11, 14, and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Wheat (U.S. 5,630,129) in view of Silva. Applicant respectfully traverses this rejection because neither of the cited references, taken alone or in combination, discloses or suggests a parallel computer system that performs scheduling in respective hierarchies, and particularly in the four recited hierarchies of the present invention.

The Examiner asserts that Wheat somehow teaches a parallel computer system that performs the third and fourth hierarchies of the present invention. Assuming, for the purposes of this discussion only, that the Examiner were correct that the cited portions of Wheat teach the tasks performed within the respective third and fourth hierarchy of the present invention (which Applicant does not concede), the Examiner has not cited to anywhere within the Wheat reference that assigns such processes to any hierarchy, let alone a third and fourth hierarchy, respectively.

The Silva reference is equally lacking in any teaching or suggestion regarding scheduling in respective hierarchies. The Examiner broadly asserts that some general discussion in the Silva reference is applicable to the processes of the first and second respective hierarchies of the present invention, but the Examiner does not cite to any specific teaching or suggestion within the Silva reference that teaches that such processes are established in a particular hierarchy, let alone the first and second hierarchy.

Silva merely describes the well-known process of Gang Scheduling. Gang Scheduling is a popular technology employed for dynamic scheduling, and focuses on

flexibility of system scalability. In contrast, the present invention is drawn toward an apparatus that allows for dynamic changes in the configuration structure of the system, in addition to the system's scalability. Such structural are made possible by the hierarchically configured process recited in the present claims, a hierarchically configured process that is neither taught nor suggested by either of the two cited prior art references.

The Examiner's proposed combination of Wheat with Silva is therefore an insufficient basis to establish a *prima facie* case of obviousness against the present invention. Even if the Examiner's expressed motivation for combining Wheat with Silva were adequate (which it is not, as discussed below), the proposed combination still fails to demonstrate where in the prior art can be found each and every feature and limitation of the present invention, as is required of the Examiner under Section 2143.03 of the MPEP. It is not enough for the Examiner merely to point to various processes, in several prior art references, and assert that such are analogous to processes *within* the recited hierarchies of the present invention. The Examiner is instead also required to demonstrate where these same prior art references teach or suggest to organize such processes according to the hierarchal structure clearly recited in the claims of the present invention. Because the Examiner has not done so, the Section 103 rejection is deficient on its face, and must be withdrawn.

Furthermore, the Section 103 rejection is further deficient because the Examiner has not pointed to any teaching or suggestion within the prior art references themselves for the proposed combination. In fact, the Examiner's expressed motivation for the combination ("to facilitate flexible simultaneous scheduling of multiple parallel jobs with

different characteristics”) does not even teach or suggest his proposed combination, and is instead only a cursory statement of a general objective that could be applied to any device or system within this field of art. It provides no guidance or motivation to one skilled in the art to combine the specific teachings the Examiner cites from the Wheat and Silva references. The motivation *for the proposed combination* must come from the references themselves, and this requirement is not satisfied by cursory statements only of the Examiner’s own personal opinion. See In re Lee, 277 F.3d 1338, 61 U.S.P.Q. 2d 1430 (Fed. Cir. 2002).

Lastly, the Section 103 rejection is inappropriate because the proposed combination is incapable of achieving all of the advantages realized according to the recited claims of the present invention. Neither cited reference, whether taken alone or together, even suggests the ability to change the configuration of a job that is already in progress. According to the advantageous hierarchical configuration recited in the claims of the present invention though, it is possible to optimize the system at times defined by a regular schedule that is established irrespectively to the progressing stage of a job that is either in progress, or has already completed. In considering the appropriateness of maintaining his obviousness rejection, the Examiner was to have considered the advantages realized by the present invention that are not even suggested by the proposed combination.

Accordingly, the outstanding Section 103 rejection should be withdrawn because there has been no teaching or suggestion cited within the references regarding hierarchies, and more particularly the hierarchical structure of the present invention, nor has here been any teaching or suggestion cited for the actual motivation to combine the specific

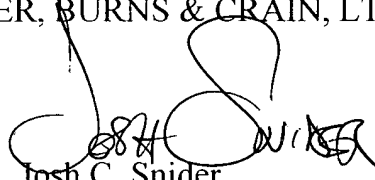
teachings from both cited references. The motivation for the combination is a requirement of the Examiner's *prima facie* case, and one that has not been met. The rejection should also be withdrawn because the clear advantages that the present invention realizes over the proposed prior art combination renders the continued rejection inappropriate as being successfully rebutted on the record as a whole.

For all of the foregoing reasons, Applicant submits that this Application, including claims 1-5, 8-9, 11, 14, and 16, is in condition for allowance, which is respectfully requested. The Examiner is invited to contact the undersigned attorney if an interview would expedite prosecution.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By

A handwritten signature in black ink, appearing to read "Josh C. Snider", is written over the printed name.

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